

AMENDED IN SENATE JUNE 24, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 627

Introduced by Assembly Member Brownley
(~~Coauthor: Assembly Member Hall~~ *Coauthors: Assembly Members*
***Blumenfield, Hall, and Portantino*)**

February 25, 2009

An act to add ~~Section 49546.5 to~~ *and repeal Section 49546.5 of the* Education Code, and to add Section 1596.804 to the Health and Safety Code, relating to child nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 627, as amended, Brownley. Child care: nutritional requirements.

(1) Under existing law, the California Child Day Care Facilities Act, the State Department of Social Services licenses and regulates child day care facilities, as defined. A willful or repeated violation of these provisions is a misdemeanor.

This bill would require that a licensed child day care facility meet specified health and nutrition-related requirements. This bill would exempt a child day care facility from these requirements, as prescribed, for a child with a documented medical necessity that prevents compliance. The bill would require compliance with these provisions by a child day care facility by January 1, 2011, and would provide that a facility shall annually self-certify compliance to the department. It would provide that noncompliance shall not result in civil or criminal penalties or penalties related to licensure.

(2) Under existing law, the State Department of Education administers the child care food program pursuant to federal law, under which food is provided to child development programs and alternative child care programs, as defined.

This bill would require the Superintendent of Public Instruction to establish an 18-month pilot program in which licensed child care centers and child day care homes selected by the department that participate in the federal Child and Adult Care Food Program shall implement certain nutrition and physical activity standards in exchange for a higher state meal reimbursement. This bill would require the State Department of Education to design and implement the pilot program, as specified. The bill would specify that its provisions shall only be implemented if the Superintendent determines that non-General Fund funding sources are available for that purpose, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Almost 20 percent of children between two years of age and
- 4 five years of age in California are overweight or obese, and
- 5 research shows that the condition is difficult to reverse at
- 6 adolescence or in adulthood.
- 7 (b) Research demonstrates that taste preferences and lifelong
- 8 healthy habits are formed in early childhood years.
- 9 (c) Recent changes to school meals to improve nutrition need
- 10 to be complemented with changes to the nutrition environment in
- 11 child care.
- 12 (d) Recent research demonstrates that the nutrition environment
- 13 in child care could be improved by encouraging ~~low-fat~~ *lowfat*
- 14 dairy products, fresh fruits and vegetables, and whole grain
- 15 products.
- 16 (e) The State of California has a strong policy and financial
- 17 involvement in the licensed child care system and in the health
- 18 and safety of children while they are engaged in that system.
- 19 SEC. 2. Section 49546.5 is added to the Education Code, to
- 20 read:

1 49546.5. (a) The Superintendent of Public Instruction shall
2 establish an 18-month pilot program in which licensed child care
3 centers and child day care homes selected by the department that
4 participate in the federal Child and Adult Care Food Program (42
5 U.S.C. Sec. 1766), shall implement certain nutrition and physical
6 activity standards in exchange for a higher state meal
7 reimbursement.

8 (b) The department shall design and implement the pilot program
9 established pursuant to this section. The department may convene
10 a stakeholder group to provide advice on the design,
11 implementation, and evaluation of the pilot program.

12 (c) The department shall contract with an independent agency
13 to evaluate the implementation and outcomes of the pilot program.
14 The evaluation shall be completed within one year of the
15 conclusion of the pilot program *and shall be sent to the Senate*
16 *and Assembly Committees on Education*. The evaluation shall
17 include, at a minimum, all of the following:

18 (1) The health, nutrition, and other related outcomes of the pilot
19 program on children served in the participating child care centers
20 and child day care homes, the child care providers, and the parents.

21 (2) The resulting changes in food and beverages provided, and
22 physical activity occurring, at the participating child care centers
23 and child day care homes.

24 (3) The fiscal impact of the policies and standards developed
25 at participating child care centers and child day care homes.

26 (4) Recommendations for improvements or additions to the pilot
27 program.

28 (d) This section shall only be implemented if the Superintendent
29 determines that non-General Fund funding sources, including, but
30 not limited to, federal funding or grant sources, are available to
31 implement this section. If the Superintendent makes a
32 determination that non-General Fund funding sources are available,
33 ~~he or she shall file a declaration to that effect with the Senate and~~
34 ~~Assembly Committees on Education.~~ *shall post a declaration to*
35 *that effect on the department's Internet Web site.*

36 (e) *This section shall remain in effect only until January 1, 2015,*
37 *and as of that date is repealed, unless a later enacted statute, that*
38 *is enacted before January 1, 2015, deletes or extends that date.*

39 SEC. 3. Section 1596.804 is added to the Health and Safety
40 Code, to read:

1 1596.804. (a) Except as provided in subdivision (b), and
2 subject to subdivision (c), a licensed child day care facility shall
3 comply with all of the following health requirements *for food and*
4 *beverages served by the provider to children while in care*:

5 (1) Meals and snacks shall include, at a minimum, the amount
6 of food and the components that are specified in *the Child and*
7 *Adult Care Food Program requirement for meals, pursuant to*
8 Section 226.20 of Title 7 of the Code of Federal Regulations in
9 effect on December 31, 2009.

10 (2) Only lowfat or nonfat milk shall be served to children over
11 two years of age.

12 (3) Juice shall be limited to a maximum of one serving per day,
13 and only 100-percent juice shall be served.

14 (4) At least one vegetable shall be served at lunch and supper.

15 (5) Deep fat frying, *as defined in subdivision (i) of Section 49430*
16 *of the Education Code*, shall be prohibited onsite.

17 (6) Sugar shall be limited to 6 grams per serving for both hot
18 and cold cereals.

19 (7) Water shall be accessible and available for consumption
20 throughout the day, *including meal times*.

21 (b) If a child has a medical necessity, documented by a
22 physician, that prevents a child day care facility from complying
23 with the requirements of subdivision (a), then the facility shall be
24 exempt from those requirements, to the extent necessary, for
25 purposes of that child only.

26 (c) A licensed child care facility shall comply with this section
27 by January 1, 2011.

28 (d) A licensed child care facility shall, on an annual basis,
29 self-certify to the department compliance with this section.

30 (e) Notwithstanding any other provision of this chapter, failure
31 to comply with this section shall not result in, or be considered in,
32 the loss of licensure, or result in any civil or criminal penalties.